

REMARKS

Applicants acknowledge and appreciate the withdrawal of the restriction requirement. As such, claims 1-26 remain pending and at issue in this application, with claims 1, 15, and 25 being independent claims. Applicants respectfully request reconsideration and favorable action in this case.

Objections to the Specification

With this response, Applicants amend the abstract to conform to the proper language and format for an abstract of the disclosure. Applicants respectfully request withdrawal of the objection.

35 U.S.C. § 112 Rejections

Claims 1, 15, 18 and 25 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action alleged that the term "depth" is indefinite, and that one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. For instance, the Office Action alleged that the term "depth" could refer to a change in perception from side to side as viewed by the player. Applicants respectfully traverse the rejection.

It is well understood that the phrase "depth of an image" generally relates to a perceived distance from a viewer. One of ordinary skill in the art would not interpret this phrase to potentially refer to a change in perception from side to side as alleged in the Office Action. For at least this reason, withdrawal of the rejection is respectfully requested.

35 U.S.C. §§ 102 & 103 Rejections

The Office Action rejected each of the claims under 35 U.S.C. § 102(b), as allegedly anticipated by Nakayama (JP 2001259172A), or under 35 U.S.C. § 103(a), as allegedly unpatentable over Nakayama in view of Vancura (U.S. Patent No. 6,033,307). Each of independent claims 1 and 25 is directed toward a gaming

apparatus comprising, in part, a first motor coupled to a movable member to move a first object such that a depth of an image of the first object changes relative to a depth of an image of a second object as viewed through a viewing window. Similarly, independent claim 15 is directed toward a gaming method comprising, in part, determining a condition of a game and, in response to the condition, causing a first object to repeatedly move during a period of time, wherein a depth of an image of the first object relative to a depth of an image of a second object changes as viewed from a viewing window during the period of time.

The Office Action established neither a *prima facie* case of anticipation nor a *prima facie* case of obviousness, because the Office Action failed to establish that either Nakayama or Vancura discloses all of the elements recited by the independent claims. In particular, the Office Action failed to establish that Nakayama or Vancura, individually or in combination, discloses a first motor coupled to a movable member to move a first object such that a depth of an image of the first object changes relative to a depth of an image of a second object as viewed through a viewing window, as recited by independent claims 1 and 25, or determining a condition of a game and, in response to the condition, causing a first object to repeatedly move during a period of time, wherein a depth of an image of the first object relative to a depth of an image of a second object changes as viewed from a viewing window during the period of time, as recited by independent claim 15. While the Office Action alleged, with respect to claim 25, that Nakayama teaches a controller being configured to move the objects repeatedly, the figures referenced in the Office action do not appear to teach or disclose any movable objects nor, if they did, would this be the same as a motor coupled to a movable member, as recited by claim 25 (and claim 1).

Moreover, Nakayama does not anticipate any of the claims at issue because Nakayama fails to disclose all of the elements recited by independent claims 1, 15 and 25 and, in particular, fails to disclose either of a motor coupled to a movable member to move a first object, or causing a first object to move repeatedly during a period of time. None of the figures 10-12 and 27-30 or the paragraphs 0015-0017 of Nakayama discloses a motor or a movable member or causing a first object to

repeatedly move during a period of time, as recited in the independent claims. Moreover, the section of the Nakayama document titled "Legends" (see Nakayama, p. 23) does not indicate a motor or a movable member, or otherwise indicate a movable object or image. Further, Vancura does not disclose the missing elements discussed above, and neither Nakayama nor Vancura provides any reason to modify the design of Nakayama to include the undisclosed elements discussed above. For at least these reasons, Applicants respectfully submit that the Office Action failed to establish anticipation by or obviousness in view of Nakayama. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

Applicants submit that the claims are in condition for allowance for at least the reasons provided above. This response is timely filed, as it is accompanied by a petition for a one-month extension of time and a check for the requisite fee therefore, thereby extending the response date to August 16, 2007. Although Applicants believe that no other fees or petitions are due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 13-2855 of Marshall, Gerstein & Borun, LLP under Order No. 29757/P-828.

Should the examiner wish to discuss any of the foregoing comments or any claim amendments deemed needed to result in allowance, applicants kindly request the examiner to contact the undersigned by telephone at the number given below.

Respectfully submitted,

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